

## **James Martin Silburn: Summary, as Published in *CheckMark***

**James Martin Silburn**, of Agincourt, was found guilty of two charges of professional misconduct, under Rules 104 and 203.2. He failed to cooperate in the attempted inspection of his practice, and then failed to reply to correspondence from the standards enforcement area of the Institute after his failure to cooperate in the practice inspection became a matter of professional conduct. He was fined \$1,500, and ordered to promptly respond to the Institute's correspondence. As a result of his failure to respond as ordered, he was suspended from membership. His continued failure to comply with the discipline committee's order has resulted in his expulsion from the Institute.

## **CHARGE(S) LAID re James Martin Silburn**

The Professional Conduct Committee hereby makes the following charges against James M. Silburn, CA, a member of the Institute:

1. THAT, the said James M. Silburn, in the period August, 1993 through February, 1994 failed to co-operate with officers, servants or agents of the Institute who have been appointed to arrange or conduct a practice inspection, contrary to Rule 203.2 of the rules of professional conduct.
2. THAT, the said James M. Silburn failed to promptly reply in writing to a letter from the Institute in respect of a matter of professional conduct, signed by an associate director of standards enforcement and dated and sent December 10, 1993, in which a written reply was specifically required, contrary to Rule 104 of the rules of professional conduct.

Dated at Toronto, this 15th day of February, 1994.

J. L. M. BADALI, FCA - CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re James Martin Silburn**

**DECISION AND ORDER IN THE MATTER OF:** Charges against **JAMES MARTIN SILBURN**, a suspended member of the Institute, under **Rules 104 and 203.2** of the Rules of Professional Conduct, as amended.

### **DECISION AND ORDER MADE MAY 20, 1994**

#### **DECISION**

THAT, having seen and considered the evidence, and having heard the plea of guilty to charges Nos. 1 and 2, THE DISCIPLINE COMMITTEE FINDS James Martin Silburn guilty of charges Nos. 1 and 2.

#### **ORDER**

IT IS ORDERED in respect of the charges:

1. THAT Mr. Silburn be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Silburn be and he is hereby fined the sum of \$1,500, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Silburn respond to the practice inspection planning questionnaire as requested in the letter of August 17, 1993 from the director of practice inspection, within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Silburn's name, be given after this Decision and Order becomes final under the bylaws:
  - (a) by publication in *CheckMark*;
  - (b) to the Public Accountants Council for the Province of Ontario; and
  - (c) to the Canadian Institute of Chartered Accountants.
5. THAT in the event Mr. Silburn fails to comply with any of the requirements of this Order within the time periods specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 4 hereof.
6. THAT in the event Mr. Silburn is suspended pursuant to paragraph 5 hereof, the suspension shall terminate upon his compliance with the term of the Order in respect of which he was suspended, provided that he complies within thirty (30) days from the date of his suspension.
7. THAT in the event Mr. Silburn fails to terminate a suspension imposed pursuant to paragraph 5 hereof within the thirty (30) day period specified in paragraph 6, he shall

thereupon be expelled from membership in the Institute, and notice of his expulsion, disclosing his name, shall be given in the manner specified in paragraph 4 hereof.

DATED AT TORONTO THIS 30TH DAY OF MAY, 1994  
BY ORDER OF THE DISCIPLINE COMMITTEE

BRYAN W. STEPHENSON, BA, LLB  
SECRETARY - DISCIPLINE COMMITTEE

## **DISCIPLINE COMMITTEE re James Martin Silburn**

**REASONS FOR THE DECISION AND ORDER IN THE MATTER OF:** Charges against **JAMES MARTIN SILBURN**, a suspended member of the Institute, under **Rules 104 and 203.2** of the Rules of Professional Conduct, as amended.

### **WRITTEN REASONS FOR THE DECISION AND ORDER MADE MAY 20, 1994**

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on May 20, 1994.

Ms. Deborah McPhadden attended on behalf of the professional conduct committee. Mr. James Silburn attended without legal counsel. The chair confirmed with Mr. Silburn that he had been advised that he was entitled to legal counsel and that he understood that right, but that he wished to proceed without counsel.

The professional conduct committee had laid one charge under each of Rules 104 and 203.2 of the Rules of Professional Conduct. The charge under Rule 203.2 alleged that Mr. Silburn failed to co-operate with the Institute in respect of a matter of practice inspection. The charge under Rule 104 alleged that the member failed to promptly reply in writing to letters from the Institute in respect of a matter of professional conduct. Mr. Silburn pleaded guilty to both charges.

The member confirmed that he understood that, upon a plea of guilty, and upon that basis alone, he could be found guilty by the discipline committee.

Mr. Silburn did not respond to letters dated August 17, September 28, and November 8, 1993 from the director of practice inspection. The November 8 letter advised the member that his written reply was specifically required under Rule 104 by a specified date, failing which the matter would be referred to the professional conduct committee, with the result that a charge or charges may be laid against him.

After Mr. Silburn failed to respond to the November 8 letter as required, the director of practice inspection referred the matter to the Institute's standards enforcement area. An associate director of standards enforcement sent a letter to the member dated December 10, 1993, again requesting his written reply in accordance with Rule 104 by a specified date. Mr. Silburn failed to reply to this letter.

Based upon the evidence presented, and the member's plea of guilty to the charges, the discipline committee found Mr. Silburn guilty of the two charges laid. The committee then heard submissions on sanction, and, upon deliberation, made the following order:

### **ORDER**

IT IS ORDERED in respect of the charges:

1. THAT Mr. Silburn be reprimanded in writing by the chair of the hearing.

2. THAT Mr. Silburn be and he is hereby fined the sum of \$1,500, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Silburn respond to the practice inspection planning questionnaire as requested in the letter of August 17, 1993 from the director of practice inspection, within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Silburn's name, be given after this Decision and Order becomes final under the bylaws:
  - (a) by publication in *CheckMark*;
  - (b) to the Public Accountants Council for the Province of Ontario; and
  - (c) to the Canadian Institute of Chartered Accountants.
5. THAT in the event Mr. Silburn fails to comply with any of the requirements of this Order within the time periods specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 4 hereof.
6. THAT in the event Mr. Silburn is suspended pursuant to paragraph 5 hereof, the suspension shall terminate upon his compliance with the term of the Order in respect of which he was suspended, provided that he complies within thirty (30) days from the date of his suspension.
7. THAT in the event Mr. Silburn fails to terminate a suspension imposed pursuant to paragraph 5 hereof within the thirty (30) day period specified in paragraph 6, he shall thereupon be expelled from membership in the Institute, and notice of his expulsion, disclosing his name, shall be given in the manner specified in paragraph 4 hereof.

The professional conduct committee proposed sanctions to which the member did not take exception. Mr. Silburn did request consideration in respect of a reasonable time within which to pay the fine. The discipline committee determined that the professional conduct committee's proposal as to sanction was appropriate to satisfy the principles of specific and general deterrence, and granted the member six months within which to pay the fine.

DATED AT TORONTO, THIS \_\_\_\_\_ DAY OF JUNE, 1994  
BY ORDER OF THE DISCIPLINE COMMITTEE

R.C.H. ANDREWS, FCA - CHAIR  
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

F.J. DUNN, CA  
K.V. CHERNICK, FCA  
T.J.T. MARK, FCA  
W.L. WOOD, CA  
A. CRANSTON (Public representative)